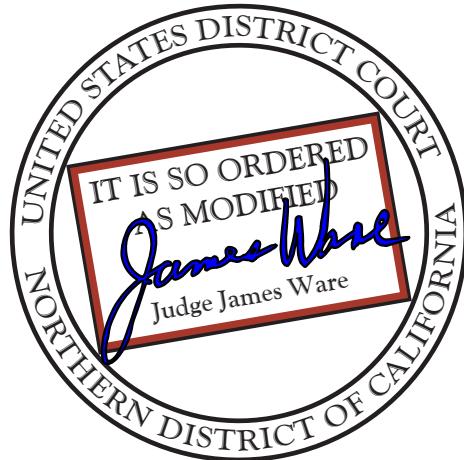


Louis Guerra, Jr.
1533 Foxdale Court
San Jose, CA 95122
Telephone: (408) 550-5106
Plaintiff Pro Se

Bradley Kampas, State Bar No. 111639
Cara Ching-Senaha, State Bar No. 209467
JACKSON LEWIS LLP
199 Fremont Street, 10th Floor
San Francisco, California 94105
Telephone: (415) 394-9400
Facsimile: (415) 394-9401
Attorneys for Defendant
NETFLIX, INC.



UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

LOUIS GUERRA, JR.,
Plaintiff,
v.
NETFLIX,
Defendant.

Case No. C-07-3343 JW

**ORDER VACATING THE COURT'S
NOVEMBER 28, 2007 SCHEDULING
ORDER; REFERRING THE PARTIES
TO MAGISTRATE JUDGE SEEBORG
FOR AN EARLY SETTLEMENT
CONFERENCE**

1 Plaintiff Pro Se Louis Guerra, Jr. and Defendant Netflix, Inc. (collectively referred to
2 herein as "the Parties") hereby stipulate to the following continuances in light of the following
3 circumstances, as follows:

- 4 1. Prior to November 28, 2007, the Parties jointly requested a teleconference
5 with the Court's ADR office in order to discuss their agreement to
6 participate in an early settlement conference ("ESC");
- 7 2. On the morning of November 28th, the Parties participated in a
8 teleconference with the Court's ADR office. At that time, the Parties
9 requested that an ESC be held as soon as possible. However, the Parties
10 were informed that in all likelihood an ESC would not be convened until
11 sometime in mid- to late-January 2008, due to the holiday season and the
12 magistrate judge's availability;
- 13 3. Prior to, and again on, November 28, 2007, the Parties agreed to suspend
14 all discovery until after an ESC is held. Prior to, and again on, November
15 28th, the Parties requested that all discovery and motions deadlines follow
16 the ESC in this case;
- 17 4. Following the teleconference with the Court's ADR office, the Court
18 issued a Scheduling Order, attached hereto as Exhibit A. Under the terms
19 of the Scheduling Order, various discovery and motions deadlines will
20 occur before an ESC can be convened. Under the Scheduling Order, the
21 parties also would be required to engage in discovery immediately in
22 order to comply with various discovery deadlines; and
- 23 5. The Parties respectfully request that the Court amend the November 28,
24 2007 Scheduling Order as follows:
 - 25 i. Continue by no less than four (4) months all relevant dates, including
26 dates by which the Parties shall complete expert discovery, complete
27 non-expert discovery, and file dispositive and non-dispositive
28 motions; and

1 6. The Parties envision that such an amendment would provide sufficient
2 time to engage in discovery after an ESC is held, if necessary.

3 IT IS SO STIPULATED.

Respectfully Submitted,

Dated: December 6, 2007

By: Louis Guerra, Jr.
Louis Guerra, Jr.
Plaintiff Pro Se

Dated: December 5, 2007

JACKSON LEWIS LLP

By: /s/
Bradley W. Kampas
Cara Ching-Senaha
Attorneys for Defendant
NETFLIX, INC.

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JOINT STIPULATION AND ORDER TO CONTINUE THE COURT'S 11/28/2007 SCHEDULING ORDER
Case No. C-07-3143 JWW

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EXHIBIT A
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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

No. C 07-03343 JW

SCEDULING ORDER

11 Netflix, Inc.,
12 Defendant. /
13
14 Upon filing, this case was scheduled for a case management conference on December 3,
15 2007. Pursuant to the Federal Rules of Civil Procedure and Local Rules of this Court, the parties
16 conferred and duly submitted a Joint Case Management Statement and Proposed Order. Based on
17 their joint submission, it appears that a schedule for the case can be set without the necessity of an
18 appearance at this time. Accordingly, the case management conference is vacated and the parties
19 are ordered to comply with the following schedule:

CASE SCHEDULE

Close of All Discovery (¶ 9)	February 4, 2008
Last Date for Hearing Dispositive Motions (¶ 10) <i>(60 days before Preliminary Pretrial Conference)</i>	April 7, 2008
Preliminary Pretrial Conference at 11 a.m. (¶ 12)	June 9, 2008
Preliminary Pretrial Conference Statements (¶ 11) <i>(Due 10 days before conference)</i>	May 30, 2008
Deadline for parties to contact Court's ADR Program to discuss an appropriate ADR process for this case (¶ 15) <i>(15 days after the date of this Order)</i>	December 15, 2007

None of the dates set in this order may be changed without an order of the court made after a motion is duly filed and made pursuant to the local rules of this court.

Standing Order to Lodge Printed Copy of "ECF" Papers

4 1. In all cases, including cases covered by the Electronic Case Filing System of
5 the Court "ECF," when filing papers in connection with any motion or any pretrial conference, in
6 addition to filing the paper electronically, the filing parties shall lodge with the Clerk's Office a
7 printed copy of the papers, in an envelop clearly marked "Chamber's Copy – Lodged for the
8 Chambers of Judge James Ware." The "Chamber's Copy" envelop must state the case name and case
9 number and be delivered on or before the close of the next court day following the day the papers
10 are filed electronically. See Standing Order Regarding Case Management in Civil Cases.

Compliance with Discovery Plan and Reference to Magistrate Judge

12 2. The Court adopts the Discovery Plan proposed by the parties in their Joint
13 Case Management Statement. The parties are ordered to comply with the discovery plan. Any
14 disputes with respect to the implementation of the discovery plan and all disclosure or discovery
15 disputes are referred to the assigned Magistrate Judge. In addition, any disputes pertaining to
16 service or joinder of parties or claims are referred to the assigned Magistrate Judge.

Document Management During Pretrial Discovery and Electronic Evidence Presentation

18 3. This Court has available a digital and video electronic evidence presentation
19 system. Before commencement of pretrial discovery, the parties are ordered to familiarize
20 themselves with the system, and to meet and confer about whether the case will involve voluminous
21 documentary. If so, as the parties identify documentary material which is likely to be used as trial
22 exhibits, the parties are ordered to electronically store these materials in a fashion which will
23 facilitate displaying them electronically during the trial. The parties are reminded that Civil L.R. 30-
24 2(b) requires sequential numbering of exhibits during depositions and that numbering must be
25 maintained for those exhibits throughout the litigation. Each proposed exhibit shall be pre-marked
26 for identification. All exhibits shall be marked with numerals. The parties shall meet and confer on

1 a division which will avoid duplication (e.g., Plaintiff: 1-99,000; Defendant #1: 100,000-299,999;
2 Defendant #2: 300,000-500,000).

3 **Disclosure of Expert Witnesses**

4 4. Any party wishing to present expert witness testimony with respect to a
5 claim or a defense shall lodge with the Court and serve on all other parties the name, address,
6 qualifications, résumé and a written report which complies with Fed.R.Civ.P. 26(a)(2)(B) **63 days**
7 **before close of discovery.** Expert witness disclosure must be made with respect to a person who is
8 either (a) specially retained or specially employed to provide expert testimony pursuant to
9 Fed.R.Evid. 702 or (b) a regular employee or agent or treating physician who may be called to
10 provide expert opinion testimony.

11 5. The parties are also required to lodge any supplemental reports to which any
12 expert will testify at trial in accordance with Fed.R.Civ.P. 26(a)(2)(B).

13 6. Any party objecting to the qualifications or proposed testimony of an expert
14 must file, serve and notice a motion to exclude the expert or any portion of the expert's testimony in
15 writing in accordance with Civil Local Rule 7-2, for hearing no later than **42 DAYS AFTER BOTH**
16 **EXPERT AND REBUTTAL EXPERT DISCLOSURES ON A MONDAY (LAW AND**
17 **MOTION DAY)** at 9:00 a.m. and preferably before or on the same day as the discovery cutoff
18 date at 9:00 a.m.

19 **Rebuttal Expert Witnesses**

20 7. If the testimony of the expert is intended solely to contradict or rebut opinion
21 testimony on the same subject matter identified by another party, the party proffering a rebuttal
22 expert shall make the disclosures required by Fed.R.Civ.P. 26(a)(2)(B), no later than **49 days prior**
23 **to discovery cutoff.**

24 **Limitation on Testimony by Expert Witnesses**

25 8. Unless the parties enter into a written stipulation otherwise, upon timely
26 objection, an expert witness shall be precluded from testifying about any actions or opinions not
27 disclosed prior to the expert's deposition. This is to ensure that all factual material upon which

1 expert opinion may be based and all tests and reports are completed prior to the expert deposition.
2 Unless application is made prior to the close of expert discovery, each party will be limited to
3 calling only one expert witness in each discipline involved in the case.

4 **Close of Discovery**

5 9. Pursuant to Civil L.R. 26-2, all discovery, including supplemental
6 disclosure, depositions of fact witness and expert witnesses, must be completed on or before the
7 deadline set forth in the Case Schedule above.

8 **Last date for Hearing Dispositive Motions**

9 10. The last day for hearing dispositive motions is set forth in the Case Schedule
10 above. Any motions must be noticed in accordance with the Civil Local Rules of this Court.

11 **Preliminary Pretrial and Trial Setting Conference Statement and Proposed Order**

12 11. The attorneys who will try the case are ordered to confer with one another
13 and to file and lodge with Chambers on or before the deadline set forth in the Case Schedule above a
14 Preliminary Pretrial and Trial Setting Conference Statement and Proposed Order, stating their
15 readiness for trial, the amount of time which the Court should allocate for trial and the calendar
16 period for the trial.

17 12. The attorneys who will try the case are ordered to appear on the date set in
18 the Case Schedule at 11:00 a.m. for a Preliminary Pretrial and Trial Setting Conference.

19 13. With respect to the time allocation for trial, at the Preliminary Pretrial and
20 Trial Setting Conference trial counsel will be asked to stipulate to a time allocation to each side for
21 the trial of the case. Once a stipulated allocation has been entered, the parties must plan their
22 presentations to conform to the stipulated time allocation.

23 14. With respect to the calendar period for trial, based on the time allotted to the
24 case, a calendar period for trial will be set. In the event it becomes necessary to delay the start of
25 trial because of the Court's calendar, the commencement date will trail from day-to day until the
26 other matter is concluded or further order of the Court.

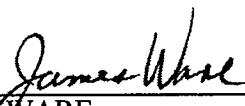
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1 Alternative Dispute Resolution

2 15. The parties are referred to the Court's ADR Program at (415) 522-2199. No later than
3 the deadline set forth in the Case Schedule, the parties shall contact the ADR Program to schedule a
4 conference.

5
6
7 Dated: November 28, 2007

8 
9 JAMES WARE
United States District Judge

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

2 Bradley W. Kampas kampasb@jacksonlewis.com
3 Cara Mei Kam Ching-Senaha ching-senahac@jacksonlewis.com

4 Louis Guerra
5 1533 Foxdale Ct.
San Jose, CA 95122

6

7 **Dated: November 28, 2007**

Richard W. Wiking, Clerk

8
9 By: /s/ JW Chambers
Elizabeth Garcia
Courtroom Deputy

10
11 United States District Court
12 For the Northern District of California
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ORDER

Pursuant to the Parties' Stipulation, attached hereto, and finding GOOD CAUSE therefore:
the Court VACATES its November 28, 2007 Scheduling Order. Based on the parties' expressed
desire for an Early Settlement Conference with a Magistrate Judge, the Court refers the parties to
Judge Seeborg. The parties shall contact Judge Seeborg's Chambers within ten (10) days from
the date of this Order to schedule the settlement conference. The Court will set a new Case
Management Conference date once Judge Seeborg's Chambers post the date of the settlement
conference.

Dated: December 6, 2007

JAMES WARE
United States District Court

CERTIFICATE OF SERVICE

Case Name: Guerra v. Netflix.
Case No.: USDC-ND; CV07-3343 JW

I, Cheryl K. Baltru, declare that I am employed with the law firm of Jackson Lewis LLP, whose address is 199 Fremont Street, 10th Floor, San Francisco, California 94105; I am over the age of eighteen (18) years and am not a party to this action.

On December 6, 2007, I served the attached **JOINT STIPULATION TO CONTINUE THE COURT'S 11/28/2007 SCHEDULING ORDER; ORDER** in this action by placing a true and correct copy thereof, enclosed in sealed envelopes addressed as follows:

Louis Guerra, Jr.
1533 Foxdale Court
San Jose, CA 95122
Plaintiff Pro Se

- [X] BY MAIL: United States Postal Service by placing sealed envelopes with the postage thereon fully prepaid, placed for collection and mailing on this date, following ordinary business practices, in the United States mail at San Francisco, California.

[] BY HAND DELIVERY: I caused such envelope(s) to be delivered by hand to the above address.

[] BY OVERNIGHT DELIVERY: I caused such envelope(s) to be delivered to the above address within 24 hours by overnight delivery service.

[] BY FACSIMILE: I caused such document to be transmitted by facsimile from our fax number (415) 394-9401 to the fax number indicated above (by written agreement, confirming letter dated and signed MM/DD/YY).

I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on December 6, 2007, at San Francisco, California.

Cheryl K. Baltru
Cheryl K. Baltru